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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 13.3.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice J.A.K.SAMPATHKUMAR

Original Side Appeal No. 57 of 3006
and
C.M.P.No.3592 of 2006

M/s. Otis Elevator Company (India) Ltd.,
represented by its General Manager,
Mr. M.K. Panickar, Southern Regional Office,
No.272, Anna Salai, Teynampet, Chennai-18. .. Appellant.

vs.

Cheran Constructions Ltd.,
Cheran Towers,78-85, Government
Arts College Road, Coimbatore-18. .. Respondent

Appeal filed under Order 36, Rule 9 of O.S. Rules read with Clause 15 of the Letters Patent against the order of learned Single Judge dated 23-1-2006 made in C.A.No. 1638 of 2004 in C.P.No. 369 of 1997.

For Appellant : Mr.A. Narayanan.
For Respondent : Mr. Srinath Sridevan

J U D G M E N T

(Judgment of the Court was delivered by P.SATHASIVAM, J.)

The above Original Side Appeal has been filed against the order of the learned Single Judge dated 23-01-2006 made in C.A.No. 1638 of 2004 in C.P.No. 369 of 1997 in and by which the learned Judge taking note of the earlier order dated 21-1-2000 and in view of pendency of the suit in C.S.No. 439/99 and after finding that an opportunity has to be given to the respondent for furnishing renewal of the bank guarantee, issued direction accordingly.

2. Even at the admission stage, Mr. Srinath Sridevan takes notice for respondent.

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3. Heard both sides.

4. It is the grievance of the appellant that though an order was passed for furnishing bank guarantee even on 21-1-2000, according to the learned counsel for the appellant, the said bank guarantee was not enforced continuously, and in such a circumstance, the learned Judge is not justified in permitting the respondent for renewal of bank guarantee. As against the said contention, learned counsel appearing for the respondent, by drawing our attention to the averements in para 5 of the counter affidavit filed before the learned Judge, would contend that though the bank guarantee was not enforced for some period by filing separate application undertaking that necessary steps are being taken for issuance of fresh bank guarantee by the State Bank of India, Commercial Branch, Coimbatore in favour of Registrar General for Rs.15 lakhs for a further period of 5 years, impugned order was passed. It is also brought to our notice that taking note of the said averments, the learned Judge permitted the respondent for renewal of bank guarantee and for furnishing the same, posted the said application after two weeks.

5. In the light of the information and the action being taken by the respondent, we do not find any error or infirmity for interference; accordingly the Appeal fails and the same is dismissed. Consequently, connected C.M.P. is closed.

R.B.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

The Sub Assistant Registrar,
Original Side, High Court, Madras.

1 cc To Mr.A.Narayanan, Advocate, SR.12540.
1 cc To Mr.Srinath Sridevan, Advocate, SR.12401.

Judgment in
O.S.A.No. 57 of 2006
and CMP No. 3592/2006

AK(CO)
RVL 28.03.2006

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